

**Guidelines:**

**Standard Permit Conditions**

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## **What Are Standard Permit Conditions?**

Part 70, primarily §70.6, contains a list of conditions that must appear in every permit. Because these conditions will be the same for all permits, they are often included in a section of the permit called "standard conditions" or "general requirements."

## **Why Review Standard Permit Conditions?**

These conditions describe important compliance responsibilities for the source and authorities for the permitting authority and EPA. Typical problems that crop up in this part of the permit include missing requirements and language changes that affect the meaning of the permit condition. Because permitting authorities typically develop boilerplate language for these provisions, it is particularly important to pay attention to these provisions in the first permits received from each permitting authority.

## **Tips for Reviewing Standard Conditions**

When reviewing a part 70 permit, use the "Checklist for Review of Required Conditions in the Title V Permit" below to determine if all of the required conditions are included.

- Approved local part 70 rule language sometimes differs from the part 70 language. Where the permit language differs from the part 70 language in the checklist below, make sure the wording matches that in the local rule.
- Also, check the interim approval notice to see if any interim approval issues dealing with standard permit conditions are identified.
- When looking for the standard conditions, be sure to check both the "standard conditions" section of the permit and the "source specific conditions" section of the permit, since permitting authorities will vary on where they include these requirements.

## CHECKLIST FOR REVIEW OF REQUIRED CONDITIONS IN TITLE V PERMITS

Permit Terms Required by Part 70	Included in Permit?
<b>Permit term - §70.6(a)(2)</b> The permit term shall not exceed 5 years. (Acid rain permits shall have a term of 5 years.)	
<b>Severability clause - §70.6(a)(5)</b> In the event of challenge to any portion of the permit, the rest of the permit remains valid.	
<b>Duty to comply - §70.6(a)(6)(I)</b> The permittee must comply with all conditions of the permit. Noncompliance constitutes a violation of the Act and is grounds for enforcement; permit termination, revocation and reissuance, or modification; or for denial of permit renewal.	
<b>Halting/reducing activity not a defense §70.6(a)(6)(ii)</b> It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce activity in order to comply.	
<b>Reopening for cause - §70.6(a)(6)(iii)</b> The permit may be modified, revoked, reopened, or terminated for cause. Filing of request for permit action by permittee does not stay any permit condition.	
<b>Reopenings for Cause - §70.7(f)</b> The permit shall be reopened and revised if: <ol style="list-style-type: none"> <li>1. additional requirements become applicable and more than 3 years remain on the term of the permit;</li> <li>2. additional acid rain requirements become applicable to the source;</li> <li>3. the permit contains a material mistake or inaccurate statements were made in establishing terms or conditions of the permit; or</li> <li>4. the permit must be revised or revoked to assure compliance with applicable requirements.</li> </ol>	
<b>Property Rights - §70.6(a)(6)(iv)</b> The permit does not convey any property rights of any sort, or any exclusive privilege.	
<b>Duty to provide information - §70.6(a)(6)(v)</b> The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. The permittee shall also furnish copies of record required to be kept by the permit.	
<b>Submission of confidential information.</b> For information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality.	
<b>Payment of Fees - §70.6(a)(7)</b> Source must pay fees consistent with fee schedule.	

## CHECKLIST FOR REVIEW OF REQUIRED CONDITIONS IN TITLE V PERMITS

Permit Terms Required by Part 70	Included in Permit?
<p><b>Changes provided for in permit - §70.6(a)(8)</b> No permit revision shall be required for changes that are provided for in the permit.</p>	
<p><b>Certification of all documents - §70.5(d)</b> Any application form, report, or compliance certification submitted pursuant to part 70 shall contain certification by a responsible official. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.</p>	
<p><b>Compliance certification - §70.6(c)(5)</b> Source must certify compliance, at least annually, with the terms and conditions of the permit. The certification must include the identification of each term or condition of the permit that is the basis for certification, the method used for determining compliance, whether such method provided continuous or intermittent data, any other material information, the status of compliance, and identification of each permit deviation over the certification period.</p> <p>Compliance certifications shall be submitted to the Administrator as well as to the permitting authority.</p>	
<p><b>Inspection and entry - §70.6(c)(2)</b> Upon presentation of proper credentials, the permittee shall allow the permitting authority or authorized representative to:</p> <ol style="list-style-type: none"> <li>1. enter the facility;</li> <li>2. access and copy records that must be kept under the conditions of the permit;</li> <li>3. inspect facilities, equipment, practices, or operations regulated or required under the permit; and</li> <li>4. sample and monitor at reasonable times for substances or parameters for the purpose of assuring compliance with applicable requirements.</li> </ol>	
<b>Schedule of compliance - 70.6(c)(3)</b>	
<p><b>Permittee will continue to comply - §70.5(c)(8)(iii)(A)</b> For requirements with which the source is in compliance, the permit shall contain a statement that the source will continue to comply.</p>	
<p><b>Permittee will comply with future requirements - §70.5(c)(8)(iii)(B) &amp; §70.6(c)(3)</b> For requirements that will become effective during the term of the permit, the permit shall contain a statement that the source will meet such requirements on a timely basis.</p> <p><i>Note: The applicable requirement may specify a more detailed schedule, which would go into the permit</i></p>	

## CHECKLIST FOR REVIEW OF REQUIRED CONDITIONS IN TITLE V PERMITS

Permit Terms Required by Part 70	Included in Permit?
<p><b>Source not in compliance</b> If the source is not in compliance at the time of permit issuance, the permit must contain:</p> <ol style="list-style-type: none"> <li>1. a schedule of measures leading to compliance [§70.5(c)(8)(iii)(C)]; and</li> <li>2. a schedule for submission of certified progress reports at least every 6 months [70.5(c)(8)(iv)]</li> </ol> <p><i>Note: This provision is not necessary if source is in compliance. Check the compliance certification in the source's application to see if it is out of compliance and needs a schedule of compliance in the permit.</i></p>	
Recordkeeping	
<p><b>Records of required monitoring -</b> §70.6(a)(3)(ii)(A) Where applicable, permit shall require records of required monitoring information that include the following:</p> <ol style="list-style-type: none"> <li>1. The date, place and time of sampling or measurement;</li> <li>2. The date the analyses were performed;</li> <li>3. The company that performed the analyses;</li> <li>4. The analytical techniques or methods used;</li> <li>5. The results of such analyses; and</li> <li>6. The operating conditions as existing at the time of sampling or measurement.</li> </ol>	
<p><b>Record retention -</b> §70.6(a)(3)(ii)(B) Records of all required monitoring data and support information must be retained for at least 5 years.</p>	
Reporting	
<p><b>Reports of Required Monitoring</b> §70.6(a)(3)(iii)(A) Reports of all required monitoring must be submitted at least every 6 months. Reports shall identify all instances of deviations from permit requirements and must be certified by a responsible official.</p>	
<p><b>Prompt reporting of deviations -</b> §70.6(a)(3)(iii)(B) The permittee shall promptly report deviations from permit requirements, including those attributable to upset conditions as defined in the permit, including the probable cause of the deviation and any corrective actions or preventative measures taken. "Prompt" should be set out in the permit.</p>	

## Checklist for Review of Optional Permit Conditions That May Be Grouped with Standard Permit Conditions

Permit Terms Required by Part 70	Review If Included in Permit
<p><b>Emergency Provisions - 70.6(g)</b>  <i>NOTE: State part 70 program is not required to include this provision.</i></p> <p>An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.</p> <p>An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the following conditions are met.</p> <p>The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:</p> <ol style="list-style-type: none"> <li>1. An emergency occurred and that the Permittee can identify the cause(s) of the emergency;</li> <li>2. The permitted facility was at the time being properly operated;</li> <li>3. During the period of the emergency the Permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and</li> <li>4. The Permittee submitted notice of the emergency to the Director within 2 working days of the time when emission limitations were exceeded due to an emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective action taken.</li> </ol> <p>In any enforcement proceeding, the Permittee seeking to establish the occurrence of an emergency has the burden of proof. This provision is in addition to any emergency or upset provision contained in any applicable requirement.</p>	

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<p><b>Permit Shield</b></p> <p><i>NOTE: State part 70 program is not required to include this provision. If included, see Permit Shield review guidelines in this Section.</i></p> <p>Compliance with the terms of the permit shall be deemed compliance with applicable requirements as of the date of permit issuance provided that:</p> <ol style="list-style-type: none"> <li>1. such applicable requirements are included and are specifically identified in the permit; or</li> <li>2. the permitting authority has determined in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination.</li> </ol>	
<p><b>Duty to supplement and correct - §70.5(b)</b></p> <p><i>NOTE: State part 70 program is not required to include this provision.</i></p> <p>If the Permittee has failed to submit any relevant facts or if the Permittee has submitted incorrect information in the permit application, the Permittee shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.</p>	